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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,157	06/01/2001	Teruo Horizumi	208937US0PCT	9142

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EXAMINER

HOWARD, SHARON LEE

ART UNIT PAPER NUMBER

1615

DATE MAILED: 03/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/856,157	Applicant(s) HORIZUMI ET AL.	
	Examiner Sharon L. Howard	Art Unit 1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Claims 1,4,7,8 are currently amended.

Claims 1-19 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19 remain rejected under 35 U.S.C. 103(a) as being unpatentable over the JP '527 reference.

The JP '527 reference teaches a cosmetic sheet comprising an aqueous gel sheet which known in the art for conditioning and beautifying the skin. The JP '527 document teaches 3 to 25% of a water-soluble polymer, gelatin and an additional water soluble polymer, polyacrylate (see page 7, at [0005] and page 9 at [0006], lines 1-9), an agar gel (see page 18, at [0014] as well as 0.01 to 20% of a moisture-keeping component which is a humectant (see page 11, at [0008, lines 8-46].

The JP '527 reference does not teach the particular properties of having a gel strength nor an adhesion force.

However, with respect to the silent teaching of the particular properties, there are no unexpected results, since the prior art teaches a cosmetic sheet which has a suitable tackiness to the skin, has excellent in the aging stability of the preparation properties and has an excellent cooling effect due to a high water content (see page 44).

It is not evident that a backing sheet or supporting layer is required in the JP '527 reference. It appears that the first reference to such is in section 19. It is considered to be an optional element of the claimed invention. However even if a backing is present the use of an inert carrier layer is not considered a basis for distinguishing the composition.

It would be reasonable to use the composition in the absence of a backing for aesthetic purposes and because one skilled in the art would be motivated to modify the composition depending on the area of use or application since the required features and properties of the sheet composition would vary based on each individuals use.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of the JP '527 reference. One having ordinary skill in the art would have been motivated to prepare a cosmetic sheet of the JP '527 reference comprising an aqueous gel, water-soluble polymers and a humectant.

The expected result would be a cosmetic sheet which comprises an aqueous gel, an agar gel, as well as an additional water-soluble polymer and a humectant.

Response to Arguments

Applicant's arguments filed 2/5/04 have been fully considered but they are not persuasive. Applicant argues the sheet-like pack of JP '527 fails to disclose or suggest a cosmetic sheet having no supporting layer. Moreover, the reference makes no reference whatsoever to the pack agent being in the form of a sheet, except in the context of being deposited as a layer on a base fabric. There is no disclosure in the reference of formation of a separate layer of pack agent. In the absence of the supporting layer, there is no suggestion of a sheet structure.

In response to applicant's arguments, the backing layer is not required. The JP '527 reference teaches the same properties and the same composition. The omission of the base fabric does not distinguish patentability over the prior art.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

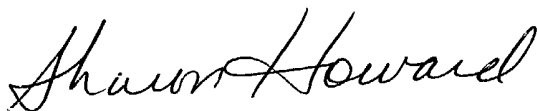
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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon L. Howard whose telephone number is (571) 272-0596. The examiner can normally be reached on 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sharon Howard
March 19, 2004



JAMES M. SPEAR
PRIMARY EXAMINER

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